

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

BRANDON CHERMAINE MALLET, §
#35737-479, §
Movant, §
§
v. § CIVIL NO. 3:20-CV-3313-K
§ (CRIMINAL NO. 3:18-CR-43-K-6)
UNITED STATES OF AMERICA, §
Respondent. §

ORDER AND INSTRUCTIONS TO
PARTIES' IN A MOTION UNDER 28 U.S.C. § 2255

Movant filed a motion to vacate, set aside, or correct sentence under 28 U.S.C. § 2255. He subsequently filed amendments and supplements to the § 2255 motion along with exhibits and an affidavit. Doc. 2; Doc. 5-8. In the interest of justice, **the Court TREATS Movant's pleadings as supplements to the § 2255 motion and directs the Government to respond.**

SERVICE OF PROCESS: The Clerk of the Court is directed to serve a copy of this order and of the section 2255 motion and any supporting documents on the United States Attorney for the Northern District of Texas. Such service shall be directed to the attention of the Criminal Section Habeas Attorney, United States Attorney's Office. *See* Rule 3(b) of the Rules Governing Section 2255 Proceedings for the United States District Court. *See* Fed. R. Crim. P. 49(b); Fed. R. Civ. P. 5(b).

RESPONSIVE PLEADINGS: Pursuant to Rule 4(b) of the Rules Governing Section 2255 Proceedings, the United States Attorney is **ORDERED to file an Answer or Response to the instant motion no later than July 7, 2021**, answering in substance as required by Rule 5 of the Rules Governing Section 2255 Proceedings. Rule 5 states, "The answer must address the allegations in the motion. In addition, it must state whether the moving party has used any other federal remedies, including any prior post-conviction motions under these rules or any previous rules, and whether the moving party received an evidentiary hearing."

A copy of the Answer or Response, together with a copy of any brief filed therewith, shall be served on Movant and a certificate shall be filed with the Clerk evidencing such service.

MOVANT'S OPPORTUNITY TO REPLY: Pursuant to Rule 5(d), Movant may file a reply within thirty (30) days from the date of service of the answer or other pleading. A reply must be limited to the arguments raised in the government' responsive pleading and shall not include any new allegations of fact or new grounds for relief. Movant shall mail a copy of any reply to counsel for the Government.

BRIEFS: Briefs should be submitted on letter size paper, 8 ½" by 11", and should be double spaced. Each argument with supporting citations advanced in the brief should clearly specify the specific ground of the motion or numbered paragraph of the pleading it seeks to support or oppose. A copy of any brief must be served by mail on the opposing party or counsel, if he is represented by counsel, and a certificate reflecting such service shall be included in the brief.

SUPPORTING DOCUMENTS: If the answer or response refers to briefs or transcripts of the prior proceedings that are not available in the Court's records, then the government shall furnish such briefs or transcripts contemporaneously with the filed answer or response. See Rule 5(c) of the Rules Governing Section 2255 Proceedings. If documents or transcripts are available in the records of the Court, the government shall identify the location of such document or transcript by the document number given in the prior proceedings.

EXTENSIONS OF TIME: Any motion for extension of time which is based on the unavailability of a transcript shall include an affidavit from the court reporter stating when the request for the transcript was made, why it was not filed on time, and the additional time necessary to file the completed transcript.

SO ORDERED.

Signed May 4, 2021.



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UNITED STATES DISTRICT COURT